

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TAMIAH GIVENS-JONES,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case Number 08-10548

Honorable David M. Lawson

Mag. Judge Virginia M. Morgan

**ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING MOTION TO
DISMISS, AND DISMISSING COMPLAINT WITHOUT PREJUDICE**

Presently before the Court is the report issued on March 21, 2008 by Magistrate Judge Virginia M. Morgan pursuant to 28 U.S.C. § 636(b), recommending that this Court grant the defendant's motion to dismiss for want of subject matter jurisdiction. The magistrate judge found that the Court lacks jurisdiction based on the plaintiff's failure to exhaust administrative remedies. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the matter. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 18] is **ADOPTED**.

It is further **ORDERED** that the defendant's motion to dismiss [dkt # 5] is **GRANTED**.

It is further **ORDERED** that the complaint is **DISMISSED WITHOUT PREJUDICE** for

want of subject matter jurisdiction.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: April 15, 2008

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 15, 2008.

s/Felicia M. Moses
FELICIA M. MOSES